

Article - Natural Resources

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§4-11A-05.

(a) This section applies to leasing in an Aquaculture Enterprise Zone in the Chesapeake Bay.

(b) (1) In consultation with the Department of the Environment and the Wetlands Administrator of the Board of Public Works, the Department shall establish Aquaculture Enterprise Zones in the Chesapeake Bay.

(2) An Aquaculture Enterprise Zone may not be located:

(i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of designation of the Aquaculture Enterprise Zone;

(ii) Within 150 feet of the public shellfish fishery or a registered pound net site;

(iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(iv) Within 150 feet of a federal navigational channel;

(v) In any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

(vi) In an SAV Protection Zone.

(3) In determining the location of an Aquaculture Enterprise Zone, the Department shall consider potential conflicts presented by other uses of the proposed area, to include navigation, recreation, and commercial fishing.

(4) Before adopting regulations establishing an Aquaculture Enterprise Zone, the Department shall hold a public hearing in the county or counties immediately adjacent to the proposed location of the Aquaculture Enterprise Zone.

(c) (1) Subject to paragraph (2) of this subsection, the Department may issue to any person an aquaculture lease in an Aquaculture Enterprise Zone.

(2) (i) 1. The Department shall set aside 25% of each Aquaculture Enterprise Zone for leasing to persons who hold tidal fish licenses under Subtitle 7 of this title and who have actively used those licenses during the 3 years preceding June 1, 2009.

2. An applicant for a lease under this subparagraph shall comply with the provisions for leasing set forth in this subtitle.

3. The set-aside provided for in subparagraph 1 of this subparagraph shall expire June 1, 2011.

(ii) The Department may issue an aquaculture lease to a corporation only if:

1. The corporation is organized under the laws of the State; and

2. More than 50% of the stock in the corporation is owned by residents of the State.

(3) The Department may establish a buffer between leased areas within an Aquaculture Enterprise Zone.

(d) A person who leases an area in an Aquaculture Enterprise Zone may cultivate shellfish:

(1) On the submerged land;

(2) In temporary protective enclosures approved by the Department on the surface of the submerged land;

(3) Subject to approval by the United States Army Corps of Engineers, on or under the surface of the water in a floating structure or in a structure on the submerged bottom, except that the height of the structure may not exceed 18 inches; or

(4) In any other manner authorized by the Department.

(e) Notwithstanding any other provision of this subtitle, an Aquaculture Enterprise Zone located within a sanctuary must be compatible with oyster restoration and must satisfy the criteria for permissible leasing within a sanctuary as provided in regulations adopted under this subtitle.

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